

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA

RECEIVED

Missoula

DIVISION

OCT 20 2017

(You must fill in this blank. See Instruction F)

Clerk, U.S. District Court  
District of Montana  
Missoula

Randy Bryant Wick

A.O. #3016231

*(Write the full name of each plaintiff who is filing this complaint. Each named plaintiff must sign the complaint.)*

Plaintiff,

-against-

State of Montana, Missoula County,

Missoula Police Officers: Campbell, Houppertm,

Martini, More

Missoula County Sheriff Deputy T.J. McDermott

*(Write the full name(s) of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. The names listed in the above caption must be identical to those contained in Section II. Do not include addresses here and do not use et al.)*

Defendants.

Case No. \_\_\_\_\_

*(to be filled in by the Clerk's Office)*

COMPLAINT

(Pro Se - Prisoner)

Jury Trial Demanded: ☒ Yes ☐ No  
*(check one)*

Lethal Excessive Force  
Police Misconduct

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to

Pro Se - Prisoner Complaint Form

Plaintiff's Last Name Wick

(Revised April 2016)

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## INSTRUCTIONS

1. Use this form to file a civil complaint with the United States District Court for the District of Montana. Include only counts/causes of action and facts – not legal arguments or citations. You may attach additional pages where necessary. Your complaint must be typed or legibly handwritten in ink and on white paper. Write on only one side of the paper. Do not use highlighters and do not staple or otherwise bind your papers. All pleadings and other papers submitted for filing must be on 8 ½" x 11" paper (letter size). You must sign the complaint (see page 8). Your signature need not be notarized but it must be an original and not a copy. The Clerk's Office cannot provide you copies of documents in your file without prepayment of \$0.10 per page (for documents electronically available) or \$0.50 (for documents not electronically available). Please keep a copy of the documents you send to the Court.
2. The filing fee for a complaint is \$350.00 plus a \$50.00 administrative fee for a total of \$400.00. This amount is set by Congress and cannot be changed by the Court. If you pay the filing fee, you will be responsible for serving the complaint on each defendant and any costs associated with such service.
3. If you are unable to prepay the entire filing fee and service costs for this action, you may file a motion to proceed in forma pauperis.
4. Complaints submitted by persons proceeding in forma pauperis must be reviewed by the Court before defendants are required to answer. See 28 U.S.C. § 1915(e)(2). The Court will dismiss your complaint before it is served on defendants if: (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim upon which relief may be granted; or (4) you sue a defendant for money damages and that defendant is immune from liability for money damages. After the Court completes the review process, you will receive an Order explaining the findings and any further action you may or must take. The review process may take a few months; each case receives the judge's individual attention. Plaintiffs should not serve defendants, pursue discovery, or request entry of default judgment prior to the completion of this review process.
5. The case caption (page 1 of this form) must indicate the proper Division for filing. The proper Division is where the alleged wrong(s) occurred. When you have completed your complaint, mail the *original* of your complaint and either the full filing fee or your motion to proceed in forma pauperis to the proper Division:

Billings Division:     *Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden*

*Pro Se     Prisoner Complaint Form*  
*Plaintiff's Last Name*     Wick

*(Revised April 2016)*  
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*Valley, McCone, Musselshell, Park, Petroleum, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland, Wibaux, and Yellowstone Counties*

**U.S. District Court Clerk, 601 2nd Avenue North, Suite 1200, Billings, MT 59101**

**Butte Division:** *Beaverhead, Deer Lodge, Gallatin, Madison, and Silver Bow Counties*  
**U.S. District Court Clerk, 400 N. Main, Butte, MT 59701**

**Great Falls Division:** *Blaine, Cascade, Chouteau, Daniels, Fergus, Glacier, Hill, Judith Basin, Liberty, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties*  
**U.S. District Court Clerk, 125 Central Ave. West, Great Falls, MT 59404**

**Helena Division:** *Broadwater, Jefferson, Lewis & Clark, Meagher, and Powell Counties*  
**U.S. District Court Clerk, 901 Front St., Ste 2100, Helena, MT 59626**

**Missoula Division:** *Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties*  
**U.S. District Court Clerk, P.O. Box 8537, Missoula, MT 59807**

**I. Parties to this Complaint**

**A. Plaintiff**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Randy Bryant Wick</u>
Street Address	<u>Montana State Prison</u> <u>700 Conley Lake Road</u>
City and County	<u>Deer Lodge</u>
State and Zip Code	<u>Montana 59722</u>
Telephone Number	<u>(406) 846-1320</u>
E-mail Address	<u></u>

**B. Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an

individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both.

## Defendant No. 1:

Name Campbell  
 Job or Title Police Officer/Cpl. (if known)  
 Street Address 435 Ryman Street  
 City and County Missoula Missoula County  
 State and Zip Code Montana 59722  
 Telephone Number (406) 552-6303  
 E-mail Address \_\_\_\_\_ (if known)  
☐ Individual capacity ☒ Official capacity

## Defendant No. 2:

Name Houppertm  
 Job or Title Police Officer (if known)  
 Street Address 435 Ryman Street  
 City and County Missoula Missoula County  
 State and Zip Code Montana 59722  
 Telephone Number (406) 552-6303  
 E-mail Address \_\_\_\_\_ (if known)  
☐ Individual capacity ☒ Official capacity

## Defendant No. 3:

Name Martini  
 Job or Title Police Officer (if known)  
 Street Address 435 Ryman Street  
 City and County Missoula Missoula County  
 State and Zip Code Montana 59722  
 Telephone Number (406) 552-6303  
 E-mail Address \_\_\_\_\_ (if known)  
☐ Individual capacity ☒ Official capacity

Defendant No. 4:

Name More  
Job or Title Police Officer (if known)  
Street Address 435 Ryman Street  
City and County Missoula Missoula County  
State and Zip Code Montana 59802  
Telephone Number (406) 552-6303  
E-mail Address \_\_\_\_\_ (if known)

☐ Individual capacity ☒ Official capacity

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX A: PARTIES").

**II. Basis for Jurisdiction**

Check the option that best describes the basis for jurisdiction in your case:

- ☒ **Federal Question:** Claims arising under the Constitution, laws, or treaties of the United States. This includes claims brought under 42 U.S.C. § 1983 against state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]."
- ☐ **U.S. Government Defendant:** United States or a federal official or agency is a defendant. This includes claims brought against federal employees under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)
- ☐ **Diversity of Citizenship:** A matter between individual or corporate citizens of different states and the amount in controversy exceeds \$75,000.

**III. Venue**

This court can hear cases arising out of the District of Montana. Under 28 U.S.C. § 1391, this is the right court to file your lawsuit if: (1) All defendants live in this state AND at least one of the defendants lives in this district; OR (2) A substantial part of the events you are suing about happened in this district; OR (3) A substantial part of the property that you are suing about is located in this district; OR (4) You are suing the U.S. government or a federal agency or official in their official capacities and you live in this district.

Please explain why venue is appropriate in this Court:

**IV. Statement of Claim(s)**

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph.

**A. Count I:**

1. What federal constitutional or statutory right(s) do you claim is/are being violated by defendants? Fourth Amendment - Lethal Excessive

Force. Eighth Amendment - physical Force Constitute  
CRUEL & UNUSUAL Punishment. Fourteenth Amendment -  
Deliberate Indifference. Due Process ~~Deprivation of evidence~~

2. What date and approximate time did the events giving rise to your claim(s)

occur? January 26<sup>TH</sup> 2015 4:00 AM

3. Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe what happened without citing legal arguments, cases, or statutes). Officers Campbell's use of

Deadly force with a Taser was not lawful or justified. It almost killed  
me I could not breath. I tried to tell them I had 2 back Surgeries, and  
neck surgery. Due to officers, more, Houppertm, martini, Campbell I suffered  
Pinched nerve in my back causing Leg Pain, some in my neck with ruptured  
Disc AT C 4 & 5 Head Acks That never stop. Both Shoulder in Constant Pain.

4. Defendants Involved: (List the name of each defendant involved in this claim and specifically describe what each defendant did or did not do to allegedly cause your injury). CPI. / Campbell missoula Police

Officer Tased me in The Left Leg & Torso. I fell face down on the sidewalk  
Then he Tased me again in The back & back of leg. Caused me to Black  
Out, loose Bowles and vomit. Officers Houppertm, more, martini - Pulled AT  
my Arms up behind my back so hard & high up They Tore my rotator Cuffs  
and knee in my back causing Pinched nerve in my back & Neck.

(NOTE: For each additional claim, use a blank sheet labeled "APPENDIX B. STATEMENT OF CLAIMS." You must address paragraphs IV(A)(1-4) for each count., following the directions under IV.



**V. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. (Do not cite legal arguments, cases, or statutes). Attach additional pages if needed.

I suffered Nerve damage in my neck, back, shoulders, & legs. my neck pain causes severe headaches that don't stop. Severe pain shoots from my neck into my right shoulder & arm. These are documented AT CMC in Missoula, I was having epidurals in my neck. And also Testing for Ruptured disk. I had fusion on C6 in 2012 now testing on my C4 & C5 in my neck. Due to Police officer's misconduct. I also have shooting pains and numbness down the back of my legs. Torn maniscus in both shoulders. They used "Lethal excessive Force" on a disabled Senior Citizen, who was labeled disabled for life Due to work Injury in 2006.

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX C: INJURY").

**VI. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Immediate neck Surgery payed for by Montana State @ a doctor of my choice.  
All future medical Cost payed for by the state of Montana.  
35 million Dollars / For Pain and Suffering, Mental Dures. And all future medical bills if MT. state refuses to cover medical Costs. For Surgeries and After Care Therapy Etc.

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX D: REQUEST FOR RELIEF").

**VII. Plaintiff's Declaration**

- A. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.
- B. I understand I must keep the Court informed of my current mailing address and my failure to do so may result in dismissal of this Complaint without notice to me.
- C. I understand the Federal Rules of Civil Procedure prohibit litigants filing civil complaints from using certain information in documents submitted to the Court. In order to comply with these rules, I understand that:
- social security numbers, taxpayer identification numbers, and financial account numbers must include only the last four digits (e.g. xxx-xx-5271, xx-xxx5271, xxxxxxxx3567);
  - birth dates must include the year of birth only (e.g. xx/xx/2001); and
  - names of persons under the age of 18 must include initials only (e.g. L.K.).
- If my documents (including exhibits) contain any of the above listed information, I understand it is my responsibility to black that information out before sending those documents to the Court.
- I understand I am responsible for protecting the privacy of this information.
- D. I understand the submission of a false statement or answer to any question in this complaint may subject me to penalties for perjury. I declare under penalty of perjury that I am the Plaintiff in this action, I have read this complaint, and the information I set forth herein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at Montana State Prison on 4<sup>th</sup> day / October, 2017.  
(Location) (Date)

Signature of Plaintiff: Randy B. Wick

Printed Name of Plaintiff: Randy B. Wick